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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/609,049	06/27/2003	Abdo Malki		6941

7590 08/18/2004  
Abdo Malki  
1005 Pepperhill Rd.  
Pasadena, CA 91107

EXAMINER

WALCZAK, DAVID J

ART UNIT	PAPER NUMBER
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3751

DATE MAILED: 08/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/609,049	Applicant(s) MALKI, ABDO	
	Examiner David J. Walczak	Art Unit 3751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 27 June 2003.  
 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.  
 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
 6) ☒ Claim(s) 1-20 is/are rejected.  
 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.  
 10) ☒ The drawing(s) filed on 23 June 2004 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>6/27/03</u> . | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION*****Abstract***

The abstract of the disclosure is objected to because phrases which can be implied, such as "The invention provides" should not be present therein.

Correction is required. See MPEP § 608.01(b).

***Drawings***

The drawings are objected to because reference character 155 is used to denote two different elements (see Figures 7 and 9). It appears that the 155 in Figure 7 should be deleted as the specification is consistent with Figure 9. Further, reference character 220 (page 5, line 21) is not present in any of the drawings. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the

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page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities: On the last line of page 5, it appears that "200" should be --300--. Appropriate correction is required.

The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: The dimensions defined in claim 11 do not have antecedent basis in the specification.

### ***Claim Rejections - 35 USC § 112***

Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In regard to claim 1, an antecedent basis for "the bristles" (line 9) should be defined. In regard to claim 7, an antecedent basis for "the at least one flat surface" should be defined (it appears that claim 7 should depend from claim 5, as opposed to claim 3). In regard to claim 8, it is unclear as to how a second flat surface can be defined when a first flat surface has not been defined (it appears that claim 8 should

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depend from claim 5, as opposed to claim 3). In regard to claim 12, an antecedent basis for "the handle members" (plural) should be defined (only one handle member has been defined in claim 1). In regard to claim 13, this claim is indefinite in that it is incomplete.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, 5, 6 and 8-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackwell (as cited by Applicant) in view of Rivero. In regard to claim 1, Blackwell discloses a toothbrush comprised of a body 10 having a reservoir therein for toothpaste, a first handle member 11 hingedly attached to the body and having a channel 33 therein (see Figure 5) in communication with the reservoir wherein the handle has closed and extended positions, a brush head 13 having a brushing surface on the handle and an aperture 26 in the brush head which communicates with the channel wherein the toothbrush can be folded to assume a compact rectangular form. Although the toothpaste is dispensed via a piston arrangement and not via a squeezing of the body, attention is directed to the Rivero reference, which discloses another toothpaste dispensing toothbrush wherein the body 10 is made from a pliable material so

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that pressure on the body forces toothpaste therefrom. Such arrangements are commonly employed in order to render a device that has less moving parts and is thereby easier and less expensive to manufacture. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the piston-type dispensing mechanism on the Blackwell device with a squeeze tube-type dispensing mechanism in order to render the Blackwell device easier and less expensive to manufacture. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the piston-type dispenser with a squeeze-type dispenser wherein such a modification would amount to the mere substitution of one functionally equivalent mechanism for another and the selection of either dispensing device would work equally well on the Blackwell device. In regard to claim 2, the brushing surface is formed by a plurality of bristles. In regard to claim 3, the reservoir contains toothpaste. In regard to claims 5, 6 and 8, the body has at least two flat surfaces that are suitable for printing graphics. In regard to claim 9, the hinge 19 serves as a valve that is closed in the folded position and open when the handle is extended. In regard to claim 10, the toothbrush includes a "mechanism" for holding the toothbrush in a closed position (the structure of the hinge will hold the toothbrush in the closed position. In regard to claim 11, although the Blackwell reference does not disclose the dimensions of the device, it is the Examiner's position that it would have been obvious to one of ordinary skill in the art at the time the invention was made that the device can be designed to have any suitable dimension, including the claimed dimensions, without effecting the overall

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operation of the device. In regard to claim 12, the body and handle are formed from plastic (column 9, line 35).

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blackwell in view of Rivero as applied to the claims above, and further in view of Kitzis. Although the Blackwell reference does not disclose a reflective surface on the body, attention is directed to the Kitzis reference, which discloses another toothbrush wherein a reflective surface is present on the body thereof in order to enable a user to have access to a mirror. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such a reflective surface onto the body of the Blackwell device in order to enable a user to ready access to a mirror.

Claims 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackwell in view of Rivero as applied to the claims above, and further in view of Garner. Although the Blackwell reference does not disclose a spool of floss and a cutter on the body, attention is directed to the Garner reference, which discloses another toothbrush wherein such a floss and cutter arrangement 22 is present on the body thereof in order to enable a user to have access to floss. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such a floss and cutter arrangement onto the body of the Blackwell device in order to enable a user to ready access to a floss.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Blackwell in view of Rivero as applied to the claims above, and further in view of

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Rumsey, Jr. (hereinafter Rumsey). Although the Blackwell reference does not disclose a toothpick integral with and extending from the body, attention is directed to the Rumsey reference, which discloses another toothbrush wherein such a toothpick is present on the body thereof in order to enable a user to have access to a toothpick. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such a toothpick onto the body of the Blackwell device in order to enable a user to ready access to a toothpick.

Claims 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackwell in view of Rivero as applied to the claims above, and further in view of Llerena. Although the Blackwell reference does not disclose a toothpick slidably engaged in a recess in the body or a second reservoir in the body for liquid dentifrice and a means to close an aperture in the reservoir to seal the same, attention is directed to the Llerena reference, which discloses another toothbrush wherein a toothpick 8 is slidably held in a recess 9 present on the body thereof and a reservoir for liquid dentifrice having a closure means 5 in order to enable a user to have access to a toothpick and mouthwash. Accordingly, it would have been obvious to one of ordinary skill in the art at the time the invention was made to include such a toothpick arrangement and mouthwash reservoir onto the body of the Blackwell device in order to enable a user to ready access to a toothpick and mouthwash.

***Allowable Subject Matter***



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Claim 4 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The eguchi, Tello-Vallarino and Palamara references are cited for disclosing other folding toothbrushes.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to David J. Walczak whose telephone number is 703-308-0608. The examiner can normally be reached on Mon-Thurs, 6:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg L. Huson can be reached on 703-308-2580. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



David J. Walczak  
Primary Examiner  
Art Unit 3751

DJW  
8/14/04